

EXHIBIT 5

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Section: B

Promise of ID Cards Is Followed by Peril of Arrest for
Illegal Immigrants

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NEW HAVEN Under his family's homemade shrine to the Virgin of Guadalupe, Alan Flores, 8, spoke softly about the morning last month when federal immigration agents entered his home.

It was part of a raid that has complicated, but not defeated, this city's novel plan to bring illegal immigrants out of the shadows.

The agents separated the children from the men. They placed Alan and three cousins, ages 7, 2 and 1, in a row on the living room couch. Then they asked the women, including Teresa Vara-Gonzalez, a housemate, if any of the children were theirs.

"Teresa said no, and that's when they took her," Alan said in Spanish last week, pressing closer to his mother, Norma Seden. "They took away Teresa, and my father and my two uncles. And then I got scared that they were going to come back and take away my mom."

Those taken from Alan's household were among the 32 immigrants arrested in the New Haven area by Immigration and Customs Enforcement, and scattered to jails in Rhode Island, Massachusetts and Maine, in an operation that began June 6 and ended June 11.

The operation started two days after the city's Board of Aldermen approved the plan to offer municipal identification cards to all residents, including an estimated 15,000 illegal immigrants settled in this city of 125,000.

But as the city prepares to issue the first municipal cards tomorrow, 28 of the

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32 are home on bond -- a rare outcome that underscores how the arrests galvanized community protest, bail money and legal help.

And while the operation made many illegal immigrants more fearful of applying for the Elm City Resident Card, as the New Haven identification card is called, Ms. Vara-Gonzalez, 32, a waitress, said the risks are now outweighed by the benefits: a valid photo ID that she could use in daily life and that could help her open a bank account. ''For us who have already been arrested,'' she added, ''we have nothing to lose.''

New Haven's mayor, John DeStefano Jr., remains convinced that the operation was retaliation for the card initiative, he said in an interview Thursday. Despite denials by Michael Chertoff, the secretary of the Department of Homeland Security, that charge has been central to the unusual legal arguments raised by Yale University law students and professors who are working with the immigrants to challenge the arrests. The debate casts a spotlight on tactics used in raids around the country as municipalities grapple with immigration issues that have defied Congressional consensus.

During the raid, one man was up in a cherry picker when immigration agents called him down, waving a photo of someone else, and arrested him when he could not produce immigration papers, the lawyers said.

In some cases, they said, agents who found no one home at an address specified in a deportation order simply knocked on other doors until one opened, pushed their way in, and arrested residents roused from bed when they acknowledged that they lacked legal status. Of the 32 arrested, most of whom are Mexican, only five had outstanding deportation orders, and only one or two had criminal records.

Many immigrants do not know that they have a right to remain silent, or to deny agents entry to their homes without a search warrant, said Michael Wishnie, a Yale law professor directing the legal challenge. Immigration statutes give government wide latitude to question people, he said, but the law requires agents to have a valid reason for suspicion, not one based on an illegal motive like racial or ethnic profiling.

In this case, Professor Wishnie contended, the overall motive for the operation was unconstitutional retaliation for New Haven's card program. The evidence collected from the arrests, he said, is therefore ''the fruit of an illegal act'' and should be thrown out.

In a letter to Connecticut's Congressional delegation, which sharply questioned the timing and conduct of the operation, Mr. Chertoff defended what his agency calls Operation Return to Sender, a national enforcement effort to reduce a backlog of more than 632,000 ''fugitive aliens.'' He insisted that in New Haven the agents ''at no time'' entered a dwelling without consent.

Professor Wishnie said, however, that Mr. Chertoff wrote that agents had waited with an 11-year-old girl for her father to come home from work. A child cannot give legal consent for entry, Professor Wishnie said.

The conflict has also energized opponents of the city ID card. On Friday, an

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immigration control group based in the suburbs of New Haven, Southern Connecticut Immigration Reform, demanded a list of applicants under Freedom of Information laws and vowed to sue for it, fanning fears among illegal immigrants that if they sign up, they could become the targets of future raids.

'Everytown U.S.A. has got their eyeballs fixed on this,' said Sean McMurray, a demolition foreman in the group. 'I don't want to see innocent people hurt, but I'm talking security for the legal residents of this country.'

On the other side, John Jairo Lugo, director of Unidad Latina en Accion, an immigrant self-help group in New Haven, also said towns across the country are watching.

'This was to make New Haven a model city in the United States,' Mr. Lugo said of the card, which is meant to be useful to all New Haven residents by combining access to city pools, libraries, the municipal golf course and the dump, and doubling as a debit card for parking meters. 'Maybe that's one of the prices you pay: the raids happened, people got detained. But the rest of the community came together. It's a symbolic lesson: You cannot fight for the immigrants alone.'

In interviews last week with seven of those arrested, the fear remained palpable.

Alan Flores's father, Apolinar Flores Romero, a pizza maker, said that in the first days after his release, he was afraid to leave the house.

Florente Baranda, another man, said he is haunted by his detention: 'They had us with chains on our feet in Hartford, 23 or 24 people in this tiny room.' Mr. Baranda, 32, has lived in New Haven since 1998, packaging bread at a bakery from 5 p.m. to 2 a.m. for \$11 an hour. He and his wife have two children and, like many of those arrested, attend St. Rose of Lima Catholic Church, which played a major role in raising bail.

'I'm nervous taking my kids to the park,' Mr. Baranda said at Junta, an immigrant organization that helped feed families when the raid left them without breadwinners.

A Yale law intern, Stella Burch, tried to reassure Mr. Baranda. Now that he is in deportation proceedings and out on \$15,000 bond, she explained, 'No one can arrest you for immigration issues, and we're going to fight with you to win your case -- St. Rose, Junta, the law school.'

The lawyers are still working for the release of Ivania Sotelo, 48, a Nicaraguan woman who was one of the few arrested on an outstanding deportation order. Her son, Jerry Sarmiento, 14, a United States citizen and the chess champion of his school, said her early-morning arrest left him in shock.

'I didn't want to tell anybody,' he said. 'But I started crying right in the middle of the seventh-and-eighth-grade morning circle.'

His mother is in the county jail in Portland, Me. 'It's a horrible place,' said Jerry, who was able to visit only once. 'They're all in orange and she's

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right next to the drug addicts and murderers, and I don't know why.'

Others had no families to call when they were bused in shackles to a private prison in Rhode Island. 'I felt like I could disappear,' Jose Yangua, 27, a landscaper, said through a translator.

Ms. Burch had called jails in three states to find Mr. Yangua and his brother Edinson, who was also arrested. She collected handwritten testimonials from their landlord and bosses to win their release on bail.

Their landlord, Michael Quoka, wrote that the brothers were 'solid members of the community' who studied English at night and paid the rent on time.

Most of the cases will probably take years to resolve. But just 18 days in jail has turned Jose Yangua's life upside down. Immigration authorities confiscated all his identity documents, he said, including his valid Michigan driver's license and the bank card he needs for access to his savings.

A municipal card, he said, may now be his best chance to prove his identity.

Photo: Apolinar Flores Romero, with his son, Alan, was arrested in New Haven by immigration agents. (Photograph by James Estrin/The New York Times) (pg. B5)

---- INDEX REFERENCES ----

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